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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,360	06/30/2003	Robert C. Gaydos	03224.0003U1	2659

23859 7590 07/05/2005

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EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/611,360	GAYDOS ET AL.	
	Examiner	Art Unit	
	Djenane M. Bayard	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/30/03*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/02/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4, 8-9, 13-14, 18-20, 23, 27-28, 32-33, 37-39, 42, 46-47, 51-52, 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,219355 to Brodigan in view of U.S. Patent No. 6,757907 to Schumacher et al.

a. As per claims 1, 20 and 39, Brodigan teaches a video and communication system. Furthermore, Brodigan teaches a method for handling content request and delivery, comprising the steps of: receiving at least one request for content sent upstream from at least one user over a first network (See col. 3, lines 50-55 and col. 4, lines 27-43, the set top box is used to send and receive information to and from headend through the various component in between); sending the request for content upstream over a second network; receiving content, and sent downstream over a third network, wherein the third network is distinct from the second network; and processing the content for delivery downstream to the user (See col. 5, lines 1-30). However, Brodigan et al fails to teach wherein sending the request to a content library.

Schumacher et al teaches sending the request to a content library (See col. 1, lines 23-34)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate sending the request to a content library as taught by Schumacher et al in the claimed invention of Brodigan in order to transfer the selected content over a communication system to the viewer display in response to a request by the viewer (See col. 1,lines 23-34).

b. As per claims 4, 23 and 42, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches sending the retrieved content downstream to the user over the first network (See col. 5, lines 1-20)

c. As per claims 8, 27 and 46, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches wherein the second network and the third network are distinct logical networks (See col. 4, lines 27-59).

d. As per claims 9, 28 and 47, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches wherein the second network and the third network are distinct physical networks (See col. 4, lines 27-59).

e. As per claims 13, 32 and 51, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches wherein the requested content includes at least one of video data, audio data and binary large object data (See col. 4, lines 1-15).

f. As per claims 14, 33 and 52, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan fails to teach wherein the user is associated with a content-on-demand subscriber.

Schumacher teaches wherein the user is associated with a content-on-demand subscriber (See col. 1, lines 23-33).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the user is associated with a content-on-demand subscriber as taught by Schumacher in the claimed invention of Brodigan in order to transfer the selected content over a communication system to the viewer display in response to a request by the viewer (See col. 1,lines 23-34).

g. As per claims 18, 37 and 56, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches wherein the content retrieved from the content library is received as raw data, and the step of processing includes performing file system processing on the retrieved content (See col. 2, lines 36-43)

h. As per claims 19, 38 and 57, Brodigan in view of Schumacher et al teaches the claimed invention as described above. Furthermore, Brodigan teaches wherein the step of processing includes transforming the retrieved content into a format suitable for delivery to the user (See col. 2, lines 36-43).

3. Claims 2-3, 5, 10-12, 21-22, 24, 29-31, 40-41, 43, 48-50 are rejected under 35

U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,219355 to Brodigan in view of U.S. Patent No. 6,757907 to Schumacher et al as applied to claim 2 above, and further in view of U.S. Patent Application No. 2005/0044166 to Colville et al.

a. As per claims 2, 21 and 40, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the step of processing comprises buffering the retrieved content.

Colville et al teaches a startup method and apparatus for use in streaming content. Furthermore, Colville et al teaches buffering the retrieved content (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate buffering the retrieved content as taught by Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

b. As per claims 3, 22 and 41, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user.

Colville et al teaches a startup method and apparatus for use in streaming content. Furthermore, Colville et al teaches wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user as taught by Colville et al in the claimed invention of Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

c. As per claims 5, 24 and 43, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al teaches wherein the third network has high bandwidth for delivering content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library.

Colville et al teaches wherein the third network has high bandwidth for delivering content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the third network has high bandwidth for delivering content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library as taught by Colville et al in the claimed invention of Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

d. As per claims 10, 29 and 48, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests.

Colville et al teaches wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests as taught by Colville et al in the claimed invention of Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

e. As per claims 11, 30 and 49, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein if content is lost before being delivered downstream to the user, a request for the lost content is sent upstream to the content library along with a subsequent request for content.

Colville et al teaches wherein if content is lost before being delivered downstream to the user, a request for the lost content is sent upstream to the content library along with a subsequent request for content (See page 4, paragraph [0048])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein if content is lost before being delivered downstream to the user,

a request for the lost content is sent upstream to the content library along with a subsequent request for content as taught by Colville et al in the claimed invention of Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

f. As per claims 12, 31 and 50, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed.

Colville et al teaches wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed as taught by Colville et al in the claimed invention of Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

4. Claims 6, 25 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,219355 to Brodigan in view of U.S. Patent No. 6,757907 to Schumacher et al as applied to claim 2 above, and further in view of U.S. Patent 5,828403 to DeRodeff et al.

a. As per claims 6, 25 and 44, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the first network includes an RF network.

DeRodeff et al teaches wherein the first network includes an RF network (See page 57-64).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the first network includes an RF network as taught by DeRodeff et al in the claimed invention of Brodigan in view of Schumacher et al in order to carry analog and digital programs and applications (See col. 1, lines 57-64)

5. Claims 15-17, 34-36 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,219355 to Brodigan in view of U.S. Patent No. 6,757907 to Schumacher et al as applied to claim 2 above, and further in view of U.S. Patent Application No. 2003/0140257 to Peterka et al.

a. As per claims 15, 34 and 53, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content.

Peterka et al teaches wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content (See page 3, paragraph [0031)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

b. As per claims 16, 35 and 54, Brodigan in view of Schumacher et al teaches the claimed invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the step of sending the request for content includes sending authentication information to gain access to the content in the content library.

Peterka et al teaches wherein the step of sending the request for content includes sending authentication information to gain access to the content in the content library (See page 3, paragraph [0033])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the step of sending the request for content includes sending authentication information to gain access to the content in the content library in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

c. As per claims 17, 36 and 55, Brodigan in view of Schumacher et al teaches the claimed

invention as described above. However, Brodigan in view of Schumacher et al fails to teach wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library.

Peterka et al teaches wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library (See page 3, paragraph [0035] and page 5, paragraph [0045]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library as taught by Peterka et al in the claimed invention of Brodigan in view of Schumacher et al in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,761602 to Wagner et al teaches a Hybrid multichannel data transmission system utilizing a broadcast medium.

U.S. Patent No. 6,049539 to Lee et al teaches an access system and method for providing interactive access to an information source through a networked distribution system

U.S. Patent Application No. 2003/0002862 to Rodriguez et al teaches a bandwidth allocation and pricing for downloading media content.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER